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18 CV 11702

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

DANONE, US, LLC,

Plaintiff,

v.

CHOBANI, LLC,

Defendant.

Civil Action No. _____

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Danone US, LLC, formerly known as the Dannon Company, Inc. ("Dannon or Plaintiff"), by and through its attorneys, for its Complaint against Defendant Chobani, LLC ("Chobani"), alleges as follows:

NATURE OF THE ACTION

1. This is an action for false advertising under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), and corresponding state law.
2. Dannon and Chobani are competitors in the yogurt market. Within the yogurt market there are different segments. The segment at issue in this lawsuit is the kids' yogurt market which is a lucrative and growing portion of the overall yogurt category. In the kids' segment, Dannon is the unquestionable market leader.
3. Dannon's Danimals® Smoothies products are the leading kids' brand in smoothies/milkshakes, often referred to as drinkable yogurts.
4. Knowing all of this, beginning in or around November 29, 2018 and continuing to the present day, Chobani commenced a national advertising and marketing campaign which inundated consumers with false advertising concerning a brand new kids' yogurt line called "Chobani® Gimmies" (the "Products" or "Gimmies"), which contains various products, including Milkshakes ("Gimmies Milkshakes"), the subject of this suit.
5. From the inception of its campaign, and continuing through today, Chobani has falsely advertised its kids' yogurt products by blatantly understating its own sugar content and falsely overstating Danimals® Smoothies' sugar content per serving.
6. Specifically, Chobani has:
 - a. falsely advertised that Gimmies Milkshakes contain "33% less sugar than leading kids' drinkable yogurt," where Danimals® Smoothies are clearly the product to which Chobani refers as the "leading kids' drinkable yogurt," when in truth all but one of the Gimmies Milkshakes contain the same amount of sugar (9g) per serving as Danimals® Smoothies;

- b. falsely advertised that Gimmies Milkshakes contain 8g of sugar per 4 ounces, when in truth all but one contain 9g of sugar per 4 ounces; and
- c. falsely advertised that Danimals® Smoothies have a 4 oz. serving size (and thus 12g of sugar) when in truth Danimals® Smoothies come in a 3.1 oz. bottle serving size (and thus 9g of sugar—the same amount per serving as Gimmies Milkshakes).

7. Chobani is falsely promoting its Gimmies products in a manner that is harmful to consumers who need truthful information about the sugar content in kids' yogurt and dairy products.

8. Chobani's false advertising is harming Dannon because consumers are buying Chobani's products based on the false promise that they contain "33% less sugar" per serving than Danimals® Smoothies.

9. Chobani's false advertising is earning it profits at the expense of both consumers and Dannon, which is likely to suffer deterioration of the goodwill associated with its products.

10. Immediately upon learning of Chobani's false and harmful advertising campaign, Dannon began looking for the Products in the market. It was not until this week that Dannon was able to locate the Products. Dannon has therefore moved as expeditiously as possible to prevent this false advertising.

11. Chobani has misrepresented the sugar content of its own Products and misrepresented the sugar content of Dannon's products all in an effort to capture a share of the kids' yogurt market that it has been unable to capture lawfully.

12. Chobani's actions are consistent with its documented history of targeting Dannon with unlawful false advertising in violation of the Lanham Act.

13. Only two years ago, in *Chobani, LLC v. The Dannon Company, Inc.*, 157 F. Supp. 3d 190 (N.D.N.Y. 2016), Judge Hurd of the Northern District of New York entered a preliminary injunction enjoining Chobani from engaging in false advertising through Chobani's literally false "Simply 100" yogurt campaign, finding that Chobani falsely depicted Dannon products as having chlorine added to them, when they did not.

14. Chobani's history of targeting Dannon with literally false claims about its products and the sensitivity of consumers to the sugar content in kids' products makes the imposition of immediate injunctive relief necessary here.

15. Accordingly, Dannon is entitled to judgment that Chobani is liable for false advertising under the Lanham Act and related state law.

16. Dannon is entitled to, among other things, an award of temporary, preliminary and permanent injunctive relief, including an order directing Chobani to remove from retail outlets all false packaging and point-of-purchase materials, take down its website pages containing the false claims, halt any other use in any other medium, and to correct the deception that has been caused in the market by Chobani's massive false advertising campaign. Dannon is also entitled to an award of substantial damages.

PARTIES

17. Dannon is a Delaware limited liability company with an address and principal place of business at 1 Maple Avenue, White Plains, NY 10605. Dannon manufactures, sells, and distributes dairy products, including but not limited to, Danimals® Smoothies.

18. Chobani is a Delaware limited liability company with an address and principal place of business at 147 State Highway 320, Norwich, NY 13815. Chobani manufactures, sells, and distributes dairy products, including yogurt.

JURISDICTION AND VENUE

19. This Court has subject matter jurisdiction over Dannon's claims under 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338, pursuant to principles of supplemental jurisdiction.

20. This Court has personal jurisdiction over Chobani because it is a Delaware LLC that continuously and systematically transacts business in New York, and because Chobani has falsely advertised and sold its Gimmies product to consumers in New York and in this judicial district. Personal jurisdiction is also proper because Chobani has committed tortious acts in New York, in this judicial district, and Dannon's claims arise out of Chobani's tortious acts. Chobani also has contacts in New York and this judicial district sufficient to permit the exercise of personal jurisdiction, including Chobani's distribution and sale of the Gimmies Milkshakes just this week in the Herald Square location of Target located at 112 W. 34th Street New York, NY.

21. Venue likewise is proper in this judicial district under 28 U.S.C. § 1391. Chobani is subject to personal jurisdiction in this judicial district, and a substantial part of the events giving rise to the claims in this action occurred in this judicial district, including harm to Dannon and consumers.

FACTS

The Parties and Products

22. Dannon and Chobani are competitors.

23. Dannon and Chobani both sell yogurt and dairy products.

24. Dannon markets its successful kids' drinkable dairy product Danimals® Smoothies, with a colorful and fun monkey character named "Bongo" that is present on all Danimals® products.

25. Dannon's Danimals® Smoothies are available in 3.1 oz. bottle servings, containing 9g of sugar per serving and are available in various flavors including the "Strawberry Explosion®" depicted below, among others.

26. Below is a Danimals® Smoothie pack and a single 3.1 oz. bottle Smoothie.



27. Dannon's Danimals® Smoothies are the leading kids' brand in smoothies/milkshakes, which are often referred to as drinkable yogurts.

28. Chobani is also a manufacturer of dairy products and is also located in New York.

29. Recently, Chobani has promoted and advertised the expansion of its business into yogurt products targeting kids, including kids' yogurt, and kids' drinkable yogurt under the Chobani Gimmies brand. Chobani markets its kids' yogurt products as Gimmies and refers to them as "yogurt milkshakes."

30. Chobani Gimmies Milkshakes are available in three flavors: Bizzy Buzzy Strawberry; Cookies & Cream Crush; and Chillin' Mint Chocolate.

31. Chobani's Gimmies Milkshakes are available in 4 oz. bottle servings, containing 9g of sugar per serving in the Bizzy Buzzy Strawberry, and Cookies & Cream Crush flavors.

Chobani's False Advertising of the Products

32. Starting around November 29th, and before the actual (days-old) launch of the Products for sale in retail locations, Chobani has, in direct violation of the Lanham Act and its own guide to marketing to children¹, falsely advertised its Products as having less sugar than in fact they do.

33. Chobani has also misrepresented the sugar content of Danimals® Smoothies in an effort to actively tarnish and capture market share from the leading brand.

34. When it launched its nationwide false and deceptive advertising campaign, in an attempt to increase its market share in the relevant kids' market, Chobani made the literally false statements described herein, and abandoned its own supposed "perspective" on marketing to children which states in pertinent part that Chobani shall "not mislead...parents...about any qualities of [their] products or benefits of consuming [their] products."

35. Chobani has expressly stated that it intends to "disrupt" the yogurt industry with its false advertising in connection with its Chobani Gimmies—falsely asserting that Chobani Gimmies are an alternative to sugary, artificially flavored yogurt snacks for kids.²

36. There are three distinct literally false claims made on the Product packaging and in the false advertising campaign.

¹ Available on Chobani's website, [www.chobani.com](https://assets.ctfassets.net/3s6ohrza3ily/QCqzpFXE4guoicISaCi4k/00a0aafbc38749773cada8db4e69f3c9/Chobani_Perspective_on_Marketing_to_Children_FINAL.pdf) through the following URL: https://assets.ctfassets.net/3s6ohrza3ily/QCqzpFXE4guoicISaCi4k/00a0aafbc38749773cada8db4e69f3c9/Chobani_Perspective_on_Marketing_to_Children_FINAL.pdf (last visited Dec. 12, 2018).

² See Laura Stampler, *Chobani Says Its New Products – Which are Similar to Existing Ones – Will "Disrupt" the kid's Yogurt Market*, FORTUNE (Nov. 30, 2018), available at <http://fortune.com/2018/11/30/chobani-gimmies-kids-yogurt/> (last visited Dec. 12, 2018).

37. The first false claim, “The False 33% Less Sugar Claim” falsely states that the Gimmies Milkshakes contain 33% less sugar than the “leading kids drinkable yogurt” (Danimals® Smoothies), when they do not.

Gimmies Milkshake Packaging:





Gimmies Milkshake Depiction on Chobani Website:



38. The second false claim, “The False 8g Sugar Claim,” falsely states that Gimmies Milkshakes contain 8g sugar per 4 ounces, when in fact, two of the three flavors of Gimmies Milkshakes do not.

Footnotes Beneath Nutrition Facts Panel of Gimmies’ Milkshake Cookies & Cream Crush and Buzzy Buzzy Strawberry Flavors

Questions or Comments? 1.877.847.6181
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*Chobani® Gimmies™ Milkshakes: avg. 8g sugar; leading kids' drinkable yogurt: avg. 12g sugar per 4 fl oz serving.

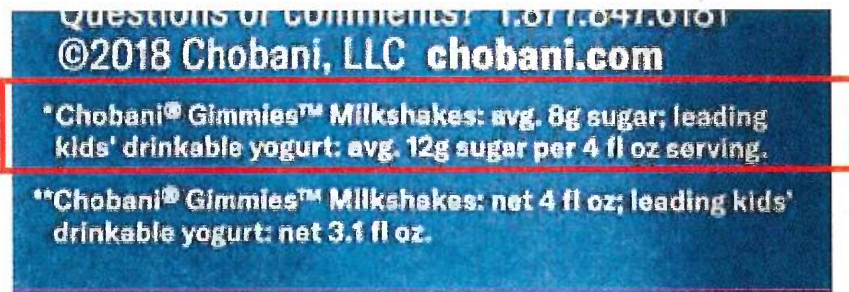
**Chobani® Gimmies™ Milkshakes: net 4 fl oz; leading kids' drinkable yogurt: net 3.1 fl oz.

Footnote on Chobani's Website Relating to Gimmies Milkshakes

*Than the leading kids' drinkable yogurt. Chobani® Gimmies™ Milkshakes: 8g sugar; leading kids' drinkable yogurt: 12g sugar per 4 fl oz serving.

39. The third false claim, “**The False Danimals® Serving Size Claim,**” falsely states that the leading kids' drinkable yogurt (which clearly refers to Danimals® Smoothies), has a 4 oz serving size (and thus 12g of sugar) when Danimals® Smoothies do not come in a 4 oz serving size and 12g of sugar are not in a single serving size of Danimals® Smoothies. In other words, Chobani's claim is false because this 4 oz. product does not exist and has never existed.

Footnotes Beneath Nutrition Facts Panel of Gimmies' Milkshake Cookies & Cream Crush and Bizzy Buzzy Strawberry Flavors



Footnote on Chobani's Website Relating to Gimmies Milkshakes

*Than the leading kids' drinkable yogurt. Chobani® Gimmies™ Milkshakes: 8g sugar; leading kids' drinkable yogurt: 12g sugar per 4 fl oz serving.

(i) **The False 33% Less Sugar Claim**

40. Chobani has misrepresented the sugar content for two of the three flavors of the Product: Bizzy Buzzy Strawberry and Cookies & Cream Crush, falsely stating that they contain 33% less sugar than the leading kids' drinkable yogurt.

41. Danimals® Smoothies are clearly the products to which Chobani falsely refers as “the leading kids' drinkable yogurt” and are the basis for Chobani's comparative advertisement.

42. Gimmies Milkshakes do not contain 33% less sugar per serving—in fact, Bizzy Buzzy Strawberry and Cookies & Cream Crush contain the same amount of sugar per one bottle serving as Danimals® Smoothies.

43. Chobani manufactures the False 33% Less Sugar Claim from its other two false claims. It claims that these two flavors of Gimmies Milkshakes have 8g sugar per 4 ounces, when they have 9g. And it claims that Danimals® Smoothies have 12g sugar per 4 ounces, when no such Danimals® Smoothies serving size exists. Only if both of these claims were true, could Gimmies Milkshakes have 33% less sugar than the “leading kids’ drinkable yogurt.” As shown below, neither is true. Because both are false, Chobani’s math does not work, and its 33% less sugar claim is also literally false.

44. This falsity is underscored by hard-to-read and self-contradictory information in mouse type on the back of the Gimmies Milkshake package. Below is the nutritional information for Cookies & Cream Crush:

Nutrition Facts		Amount/serving	%DV*	Amount/serving	%DV*
Serving Size 1 Bottle		Total Fat 2g	3%	Sodium 50mg	2%
Servings 6		Sat. Fat 1.5g	8%	Total Carb. 10g	3%
Calories 80		Trans Fat 0g		Dietary Fiber 0g	0%
Fat Cal. 20		Cholest. 10mg	3%	Sugars 9g	
*Percent Daily Values (DV) are based on a 2,000 calorie diet.		Potassium 180mg	5%	Protein 6g	12%
		Vitamin A 0% • Vitamin C 0% • Calcium 10% • Iron 0%			

Ingredients: Lowfat yogurt (cultured pasteurized nonfat milk, cream), water, cane sugar, fruit pectin, natural flavors, chicory root fiber, lemon juice concentrate, locust bean gum, vanilla bean powder.

6 live and active cultures: S. Thermophilus, L. Bulgaricus, L. Acidophilus, Bifidus, L. Casei and L. Rhamnosus.

Only natural ingredients
No artificial flavors or sweeteners, no preservatives, no GMO ingredients, no rBST†

Chobani, LLC, New Berlin, NY 13411
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†According to the FDA, no significant difference has been found between milk derived from (rBST-treated) and non-rBST-treated cows.

*Chobani® Gimmies™ Milkshakes: avg. 8g sugar; leading kids' drinkable yogurt: avg. 12g sugar per 4 fl oz serving.
**Chobani® Gimmies™ Milkshakes: net 4 fl oz; leading kids' drinkable yogurt: net 3.1 fl oz.

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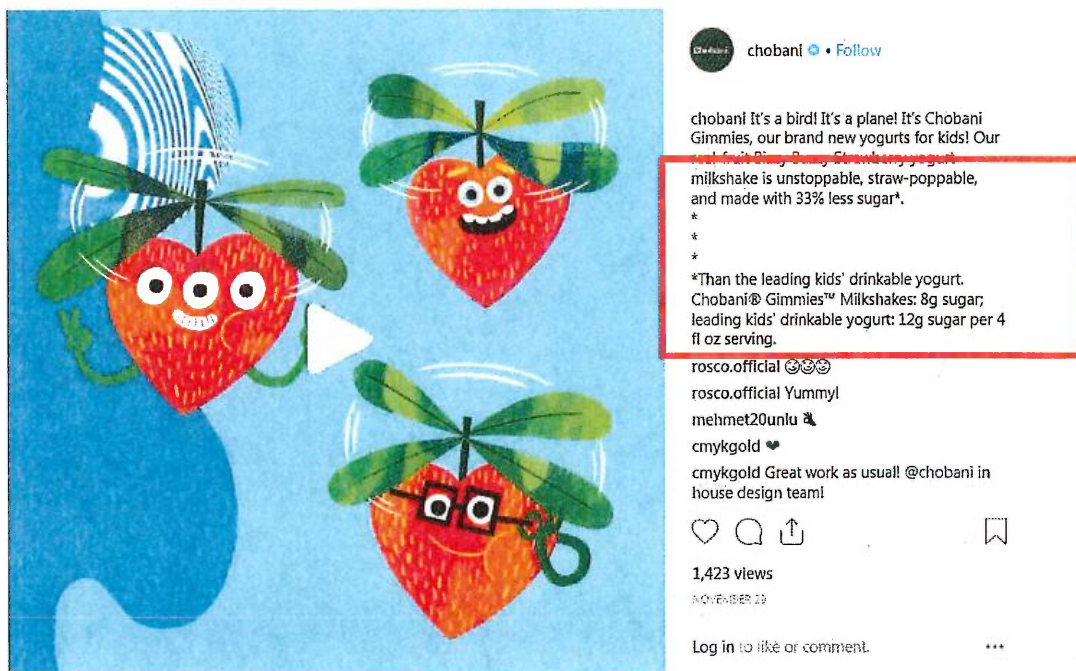
*Chobani® Gimmies™ Milkshakes: avg. 8g sugar; leading kids' drinkable yogurt: avg. 12g sugar per 4 fl oz serving.
**Chobani® Gimmies™ Milkshakes: net 4 fl oz; leading kids' drinkable yogurt: net 3.1 fl oz.

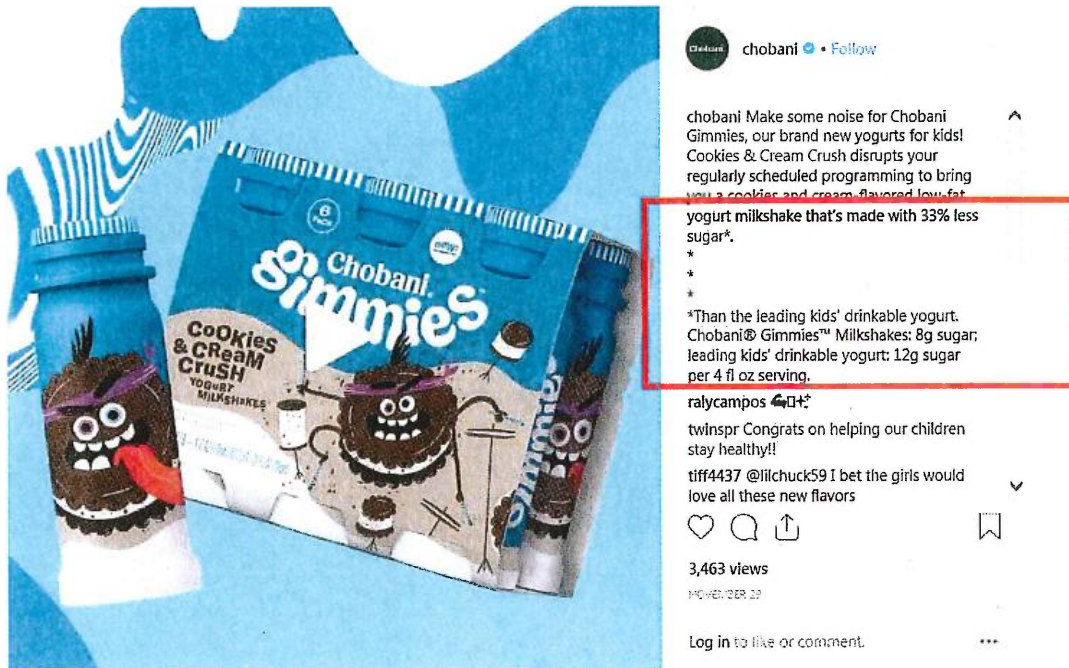
45. Chobani lists 9g of sugar (the same amount in a serving of Danimals® Smoothies), in the Nutrition Facts for the Gimmies Cookies & Cream Crush and Bizzy Buzzy Strawberry. But below, on the same panel, Chobani falsely states next to an asterisk that the Products have “avg. 8g sugar” and the “leading brand” (referring to Danimals®) has “avg. 12g sugar per 4 fl oz serving,” even though no such Danimals® serving exists. Both statements are literally false, and thus, so is the False 33% Less Sugar Claim derived from them.

46. Chobani makes the False 33% Less Sugar Claim on the Gimmies Milkshakes packaging (front of Product package and top of package), as well as on the Gimmies Milkshake website.

47. Chobani also makes False 33% Less Sugar Claim for the Gimmies Milkshakes in various advertisements and promotions on social media platforms, such as Instagram and YouTube, as well as in mass emailing to consumers.

Chobani Instagram Posts Regarding Gimmies Milkshakes:





Chobani YouTube Post Regarding the Product:



Introducing Chobani Gimmies yogurt for kids!

48. A true and correct copy of a mass email to consumers sent by Chobani on December 13, 2018 with the subject line “Introducing our NEW kids’ yogurt!” is attached as **Exhibit A**. The email advertises Chobani’s Gimmies Milkshake products, among others, and includes the False 33% Less Sugar Claim, as depicted below.



Milkshakes

Drinkable yogurt with 33%
less sugar* in kids' favorite
milkshake flavors.

*Gimmies™ Tubes: 4g sugar, 3g protein; leading kids' yogurt tubes: 6g sugar, 1.5g protein per 1.5oz serving. Gimmies™ Milkshakes: 8g sugar, 6g protein; leading kids' drinkable yogurt: 12g sugar, 3g protein per 4 fl oz serving. Gimmies™ Crunch: 8g protein; leading kids' yogurt with mix-ins: 4g protein per 4oz serving.

49. The Product packaging, website, social media posts, and mass email are literally false because the Product does not contain 33% less sugar than Danimals® Smoothies, the leading kids’ drinkable product.

(ii) The False 8g Sugar Claim

50. As explained above, Chobani has falsely stated in packaging, advertising, on its website, throughout social media, and in a mass email for the Bizzy Buzzy Strawberry and Cookies & Cream Crush Gimmies Milkshake flavors that they have 8g of sugar per 4 oz. serving.

Footnote on Chobani's Website Relating to Gimmies Milkshakes

*Than the leading kids' drinkable yogurt. Chobani® Gimmies™ Milkshakes: 8g sugar; leading kids' drinkable yogurt: 12g sugar per 4 fl oz serving.

51. The Bizzy Buzzy Strawberry and Cookies and Cream Crush do not have 8g of sugar per 4 oz. serving. They have 9g of sugar per serving according to their own nutrition facts panels, as shown below.

Chobani Gimmies Bizzy Buzzy Strawberry Nutrition Panel From Packaging:

Nutrition Facts	Amount/serving	%DV*	Amount/serving	%DV*
	Total Fat 2g	3%	Sodium 50mg	2%
Serving Size 1 Bottle	Sat. Fat 1.5g	8%	Total Carb. 10g	3%
Servings 6	Trans Fat 0g		Dietary Fiber 0g	0%
Calories 80	Cholest. 10mg	3%	Sugars 9g	
Fat Cal. 20	Potassium 180mg	5%	Protein 0g	12%
*Percent Daily Values (DV) are based on a 2,000 calorie diet.	Vitamin A 0% • Vitamin C 0% • Calcium 10% • Iron 0%			

Chobani Gimmies Cookies & Cream Crush Nutrition Panel From Packaging:

Nutrition Facts	Amount/serving	%DV*	Amount/serving	%DV*
	Total Fat 2g	3%	Sodium 50mg	2%
Serving Size 1 Bottle	Sat. Fat 1.5g	8%	Total Carb. 10g	3%
Servings 6	Trans Fat 0g		Dietary Fiber 0g	0%
Calories 80	Cholest. 10mg	3%	Sugars 9g	
Fat Cal. 20	Potassium 180mg	5%	Protein 0g	12%
*Percent Daily Values (DV) are based on a 2,000 calorie diet.	Vitamin A 0% • Vitamin C 0% • Calcium 10% • Iron 0%			

(True and correct photographs of the Nutritional Facts from Chobani Gimmies Cookies & Cream Crush Nutrition Panel and Bizzy Buzzy Strawberry Nutrition Panel are attached as Exhibit B).

52. The claim that the Bizzy Buzzy Strawberry and Cookies & Cream Crush flavors contain 8g of sugar per serving is thus literally false.

(iii) The False Danimals® Serving Claim

53. Chobani has targeted Danimals® Smoothies in its reference to “the leading kids’ drinkable yogurt.”

54. Chobani has falsely stated that the “leading kids drinkable yogurt” i.e., Danimals® Smoothies, has 12g of sugar per 4 oz. serving on its website, and product packaging, as shown below.

Chobani Gimmies Cookies & Cream Crush Webpage:

A cookies and cream flavored low-fat yogurt milkshake made with real vanilla for real, good, fun.

*Than the leading kids' drinkable yogurt. Chobani® Gimmies™ Milkshakes: 8g sugar; leading kids' drinkable yogurt: 12g sugar per 4 fl oz serving.

Chobani Gimmies Bizzy Buzzy Strawberry Webpage:

Real strawberries, real milkshake flavor in a sippable strawberry low-fat yogurt drink.

*Than the leading kids' drinkable yogurt. Chobani® Gimmies™ Milkshakes: 8g sugar; leading kids' drinkable yogurt: 12g sugar per 4 fl oz serving.

55. Dannon's Danimals® Smoothies is the market leader and is thus the “leading kid's drinkable yogurt” referenced in Chobani's claim.

56. As explained above, Danimals® Smoothies are not available in a 4 oz. serving, and therefore a Danimals® serving never contains 12g of sugar.

57. Thus, Chobani's statement that the leading kids' drinkable yogurt, referencing Danimals® Smoothies, contains 12g of sugar per 4 oz. serving is literally false because a bottle serving of Danimals® Smoothies is never, and has never been, 4 oz.

Irreparable Harm Caused by Chobani's False Advertising

58. The false claims are designed to influence parents' purchasing decision to choose the Gimmies product over Danimals® Smoothies.

59. Indeed, Chobani has stated that its purpose for releasing its Gimmies product line was "to break th[e] cycle" of kids having to choose "either junk food that parents don't want their kids to eat or food that's designed for adults that kids don't want to eat." Chobani thus acknowledges that advertising claims relating to the amount of sugar in foods marketed to children are material and affects consumer purchasing decisions.³

60. As shown in the screenshots below, taken from Chobani's social media pages, consumers of kids' drinkable dairy products are likely to view the Chobani Gimmies Products as healthier based on Chobani's materially false statements.



³ Available at <https://www.prnewswire.com/news-releases/chobani-reimagines-good-for-you-kids-food-with-new-chobani-gimmies-300757525.html> (last visited Dec. 12, 2018).

61. Chobani's false advertising has damaged (and unless it is enjoined, will continue to damage) the goodwill associated with the Danimals® brand, as consumers are being deceived into believing that a competing product has an attractive feature, namely, less sugar per single bottle serving, than Danimals® Smoothies.

62. Chobani's false advertising campaign comes at a critical time for Danimals® Smoothies sales, immediately prior to the January second back-to-school period after the holidays when consumers of kids' drinkable yogurt products are in the market. This is the biggest season for Danimals® because families return back to their routines, children return to school, and start building their habits. This is a critical consumer recruitment period and a critical sales period. Accordingly, Chobani's false claims will irreparably harm and injure Dannon's ability to recruit new customers and retain existing customers during this time.

FIRST CLAIM FOR RELIEF

False Advertising Lanham Act Section 43(a), 15 U.S.C. § 1125(a)

63. Plaintiff repeats and incorporates the foregoing allegations in each and every paragraph as though fully set forth herein.

64. Chobani's false and misleading statements constitute false advertising in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

65. Chobani has disseminated the false and misleading statements to the public through commercial advertising and promotion, and thus caused them to enter interstate commerce.

66. Chobani's false and misleading statements of fact concerning the characteristics, performance and sugar content of the Gimmies Milkshakes as compared to Danimals® Smoothies, are material, and are likely to continue to influence consumers' purchasing decisions.

67. The Gimmies Milkshakes directly compete with Dannon's Danimals® Smoothies in the relevant market, and Chobani's false advertising claims have actually deceived or have a tendency to deceive a substantial number of consumers in that market.

68. Chobani's false and misleading advertising has caused and continues to cause irreparable injury to the public and to Dannon's business, goodwill and reputation, and Dannon has no adequate remedy at law. Upon information and belief, Chobani's actions will continue if not enjoined.

69. As a direct and proximate result of Chobani's false and misleading advertising, Dannon has incurred damages in an amount to be proven at trial. Such damages include, among other things, lost sales, harm to Dannon's business reputation and goodwill, lost profits and harm to the value and goodwill associated with the Danimals® brand.

70. Chobani knew, or by exercise of reasonable care should have known, that the above-described advertising claims are false and/or misleading, and are likely to deceive the public. Accordingly, Chobani's actions were willful, making this an exceptional case within the meaning of 15 U.S.C. § 1117.

SECOND CLAIM FOR RELIEF

Violation of N.Y. Gen. Bus. Law § 349

71. Plaintiff repeats and incorporates the foregoing allegations in each and every paragraph as though fully set forth herein.

72. Chobani's false and deceptive advertising contains materially misleading statements of fact that concern the ingredients, characteristics and sugar content of the Chobani Products and Danimals® Smoothies,.

73. Chobani's false and misleading statements of fact may deceive consumers who are careful about the sugar content in products they give to their kids. Chobani's false and misleading statements thus threaten injury to the public and consumers of these products.

74. As a direct and proximate result of Chobani's wrongful acts, Dannon has been injured and incurred damages in an amount to be proven at trial.

75. This is not the first time Chobani has been found to have engaged in false advertising, and accordingly the foregoing actions of Chobani constitute a knowing and willful violation of N.Y. Gen. Bus. Law Sec. 349.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Chobani as follows:

1. For an Order and Judgment which:
 - a. Temporarily, preliminarily and permanently enjoins Chobani its officers, agents, servants, employees, representatives, parents, subsidiaries, affiliates, divisions, successors, and assigns, and all other persons in active concert or participation with any of them, from further disseminating the false and deceptive advertising claims described herein in any form or medium, including, but not limited to, any packaging, point of sale materials, website pages, social media, or any other medium containing the false and deceptive advertising claims;
 - b. Requires Chobani to withdraw and/or retrieve all offending advertising materials, including the labeling on the packaging for the Products, from the marketplace; and

- c. Requires Chobani to disseminate among consumers corrective advertising to dispel the false and deceptive messages contained in the subject advertising.
2. For an order directing Chobani to account for, and to pay over to Plaintiff, all gains, profits and advantages derived by Chobani from the above-described wrongful acts;
3. For an award of monetary damages sustained by Plaintiff as a result of Chobani's unlawful conduct, in an amount not yet known, but to be proved at trial;
4. For an order multiplying or otherwise enhancing any award under 2 and 3 above because of Chobani's willful and deliberate wrongdoing described herein;
5. For an award of punitive damages resulting from Chobani's state law violations in an amount to be proved at trial;
6. For an award of costs of this action and its reasonable attorneys' fees incurred herein by Plaintiff as authorized by law; and
7. For an award of such other and further relief as this Court deems just and proper.

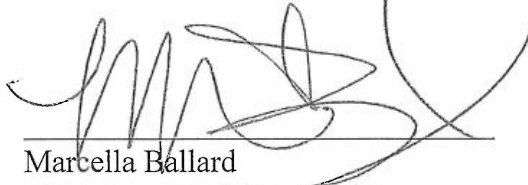
DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury on all issues so-triable.

Dated: December 14, 2018

Respectfully submitted,

VENABLE LLP

A handwritten signature in black ink, appearing to read 'Marcella Ballard', is written over a horizontal line.

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—and—

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